



## Lamoine Board of Selectmen Minutes of September 7, 2006

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Brett Jones, Cynthia Donaldson, Richard Fennelly, Jr., Perry Fowler, Josephine Cooper; Administrative Assistant Stu Marckoon, John Wuorinen, Kathy DeFusco, Tom Barr, Mike Garrett, Bob Pulver, Gerald Ford, Dennis Ford, Michael Jordan, Mike Sarro & daughter, R. Dale Macurdy

**Agenda Review** – Mike Jordan said he would like to present something to the Selectmen at the end of the meeting.

**Minutes of August 17, 2006** – Jo moved to accept the minutes with a couple minor corrections. Richard 2<sup>nd</sup>. **Vote in favor was 4-0 (Donaldson abstained).**

**Gravel Sale Settlement** – Stu said Steve Salsbury was unable to attend but the report is in the materials set out tonight, and the check is in the bank. He said Mr. Salsbury would like to conduct a site visit with the Selectmen on September 23<sup>rd</sup> at 9AM, which would follow a Planning Board site visit the same morning.

Richard said there are contracts that precede the latest contract and show a discrepancy in volumes contracted. He said he would like to locate the earlier contracts to determine whether the math in Mr. Salsbury's report to the town is correct. Brett said he'd like an itemized accounting of the monies received. He said he would like to clarify the contract that is in hand and know the actual numbers. Richard said on the surface it's nice to see more money. He said one could question if it's as much as it should be.

Jo said she would like to check her calendar in regard to the site visit. Brett asked why we are here ten-years later closing out a contract. Jo said it looks like Mr. Salsbury's report is giving a history of the area. Brett said there is a lot of strangeness in the numbers. Richard said it's logical to think the earlier contracts were closed. He said he hopes to find that everything is settled out fine. He said they didn't necessarily have to go back to the original contracts to settle out. Perry said he wondered if they kept taking more at the beginning and it kept building up. Cynthia said we really need to know how much was taken out and how much was paid for, and what the difference is.

Perry said ten years ago it wasn't a big deal, but now it's more stringent. Brett said a survey was done prior to some contract. Richard asked when the baseline referred to by Mr. Salsbury was taken, and it was probably prior to the current contract, and this is a settlement survey. A short discussion followed. Jo said the board needs that information and Mr. Salsbury to answer the questions. Brett said if the town ventures into an

extraction contract again, instead of relying on conjecture, the contracting company should pay for a survey before extraction starts. A short discussion followed on obtaining a second opinion.

**Emergency Operations Plan** – Stu said he met with Ralph Pinkham and Linda Feury of the Hancock County Emergency Management Agency. He said they asked that a pandemic flu chapter be added to the plan. He said he got some material on that, but the current draft could be approved and that added later. Richard asked if there was a pressing need to approve the plan. Stu said NIMS compliance requires action sometime this fall. He said he was not sure of the deadline. Jo said she'd like to table this until the next meeting so the flu section could be added. A short discussion followed on NIMS ramifications.

**Flooring Bids** – The Selectmen received three proposals for flooring at the town office as follows:

Bidder	Flooring Type	Cost
Family Floor Store	Carpet – Shaw Ayers Hall	\$1,785.00
Rigg's Rugs	Carpet – Camden Harbor	\$1,822.25
Rigg's Rugs	Carpet – Vocation III	\$1,727.48
Sarro's Flooring	Carpet – Commercial IV	\$3,456.96
Sarro's Flooring	Carpet – Rubber Backing	\$5,243.84
Sarro's Flooring	Vinyl Flooring	\$6,942.40

Brett said this was like a shopping trip. He said the Selectmen should decide what type of flooring they like and bid it out again. Jo said they purposely asked for a variety of things. Richard said anyone who was going to bid on this would have. Perry said he's not a big carpet fan, but the rubber backed carpet is better because dirt won't go through it. He said he's not crazy about priming the floor for that. He said he likes the look of the vinyl wood material, but that cost is too far out. He said he was veering toward rubber backed carpet.

John Wuorinen said the Castine school refurbished and replaced the carpeting with a wood floor, and the absentee rate fell by a factor of two. He said rugs collect bad stuff. Mark Sarro said dirt passes through normal carpeting, but nothing passes through the rubber backed carpet, including odors. A short discussion followed on cleaning.

Richard asked the two people who work at the town hall for their opinions. Kathy DeFusco said she preferred the vinyl wood. Stu said he likes the rubber backed carpet if it's easier to clean. He asked Mr. Sarro if the material in the carpet can pull with use. Mr. Sarro explained about separate fibers. Perry asked about warranties. Cynthia asked if the vinyl product is new, and if Mr. Sarro knows of anyone who's had it for a long time. Mr. Sarro said it's been around for a long time and wears forever, and has a 10-year warrant. Richard asked if the chairs would roll freely on the rubber backed carpet. Mr. Sarro said they would, and put down a piece of carpet to test that out.

Jo said it looks like the Board prefers the rubber backed carpet. Cynthia said she likes the vinyl as it keeps the historic building looking more authentic. She said it adds extra cost. Richard asked if there was any input from the public. Tom Barr said the vinyl stands out better. Dale Macurdy said some people would say a carpet looks cheap.

Jo asked what the budget was. Stu said he thinks it was about \$4,000, which includes \$2,000 the Selectmen encumbered from the previous administration budget. Richard said the rubber carpet was \$4,143 if the underlay is eliminated as Mr. Sarro suggested it could be.

Brett said the purpose of a bid is to get the product for the best price. He said it's the Board's duty to put the product out to bid for the best possible price. Richard said he didn't oppose that, but didn't think the town would see any more bids than what it got. Brett said with the fire department roof the town had specific bids, and chose to add changes to the project. Perry said he saw Brett's point, but the way it went to bid, Mr. Sarro's bid is now public knowledge. He said if any others had a product, they should have presented it. Brett said it's not up to the flooring companies to decide what the town wants.

Richard said the town put out a performance spec, not a material spec. Mr. Sarro said he brought three different proposals. Jo said that's what the board had hoped for. Brett said the reason for the bidding process is to get the best item for the best price. Jo said she did not agree with putting the matter back out to bid. She said they were careful to ask for options, and the bidders could have put that type of material in. A short discussion followed.

Michael Jordan said it puts the contractor in a hard position, as it gives his competitors the price for the product. Brett said his concern is to do the best job he can. A short discussion followed on the fire department roofing project. Richard said he didn't believe the bids formulated the way they were did a disservice to the taxpayers. Jo said the goal was to get the lowest price and a solution to the problem. She said the Selectmen didn't know anything about flooring and asked for multiple choices. She said Mr. Sarro was the only one who gave different products. She said a lot of towns go for the lowest cost. Richard said it would be helpful to conduct a life-cycle cost analysis to see if the higher price material would last longer than 2 or 3 lower price materials. A short discussion followed on the bid process.

Richard moved to pick the rubber backed carpeting. Perry 2<sup>nd</sup>. Jo said she likes the rubber backed material, but is not a big carpet fan. She said he she had a choice she would pick vinyl, but her concern is for money. She said if she were to pick carpet, it would be the rubber backed one. Cynthia asked about the color.

Stu looked up the budget, and said there was a total of \$3,600, which included the \$2,000 encumbered from the past fiscal year. Richard withdrew his motion and Perry withdrew his 2<sup>nd</sup>. Perry said maybe the board ought to go back to square one and do more research.

Cynthia said an area rug could go down and more money could be put into the budget at the next town meeting. Stu said he didn't favor that idea.

Jo said the board would table this matter and put it on the agenda for the next meeting.

**Cell Phone Tower** – Stu said the day after the previous meeting attorney Barry Hobbins showed up at his office, and it looks like they want to proceed. He said the next steps would appear to be Town Meeting authority to lease the land for a tower and then Planning Board approval for the permits. There was a discussion on exactly where the location would be, and whether municipal use would be allowed. Stu said Mr. Hobbins assured him that municipal use would be acceptable. He said Mr. Hobbins looked at the standard contract that had been e-mailed and said it was the same as every other town in Maine.

John Wuorinen gave his educational background as an electrical engineer. He said the requirements for maximum exposure to UHF radiation were determined by thermal heating effect, and it makes no sense. He said the smallest amount of radio waves can jangle the atoms and generate free radicals in humans which causes cancer. He said there is little understanding of this problem and he would give the information to the board. He said he was concerned about those people who live closest to the cell tower. Jo asked how close. Mr. Wuorinen said a range of thousands of yards is considered safe by the federal government. Jo asked what the recommended distance is. Mr. Wuorinen said he didn't have those.

Jo said she's heard concerns about aesthetics, air space, and cell phone tumors. Mr. Wuorinen said he hasn't looked into the matter in great detail. Richard said power lines have been studied. Mr. Wuorinen said that's a different issue. He explained how radio frequency waves work. A short discussion followed. Richard asked if we are doing damage to ourselves when we hold a cell phone to our ears. Mr. Wuorinen said the cell phone tower is on all the time.

Dennis Ford said he was lost. He said he thought the HDTV frequencies were to free up frequencies from over the air TV, and he wondered where TV figures in. Jo asked to have Mr. Wuorinen make sure the board receives the information. Mr. Wuorinen presented some written information. Richard asked Mr. Wuorinen if he is suggesting not locating a tower in Lamoine. Mr. Wuorinen said he was advising to be cautious of what information the cell phone company is presenting, especially if it is federal information. Jo said the board would wait for the next step and take that information into consideration.

**Road Name** – Jo said each board member apparently got a letter from Reggie and Marion McDevitt in regard to the name proposed for the Old Berry Road. Stu said he heard from several others and no one had objections to Phil's Road, but there were concerns about property access, which he explained was not a matter for the town. Jo said she likes the name Coolidge Crossing and would like to propose that to the abutters. Brett asked if naming that road something else would cause any problems with deeds. Jo

said she didn't think so. Jo asked if the board should check with the other landowners about the name Coolidge Crossing. Stu said he would do that.

**Flag Donation & Display Program** – Selectmen reviewed the proposed policy and made a couple of corrections. Stu said he would have the final version for signature at the next meeting.

**Cable TV** – Stu said he spoke with Shelley Winchenbach the day before. He said she told him there would be a regional meeting soon. He said Donna Theall is quite interested and he would invite her to attend with him once he finds out. A short discussion followed on getting service extensions.

**Deputy CEO** – Jo said the Selectmen discussed filling this position at the last meeting. She said she was glad to see Dennis Ford was out of the hospital. Mr. Ford said he was all for staffing the position because it's a good idea to have a backup. Stu asked how the Board wanted to advertise it. Brett said the educational requirements should be included in the ad. Cynthia said it needs to be clear the person would be somebody to step in while Dennis is not present. A short discussion on training followed. Stu asked where the Selectmen want to advertise. Jo said the website, through e-mail, and in the Ellsworth American. Brett asked about pay for the position. Dennis said when he was John Holdsworth's deputy he got mileage and was paid John's salary when he worked in Mr. Holdsworth's place. Jo asked about a deadline for applications. The board agreed on October 1<sup>st</sup>.

Other CEO Matter – Brett asked about the entrance on Pasture Way. Mr. Ford said he's still waiting for the developer, Steve Joy, to complete it. He said the only leverage is to hold up any development proposals on the first lot. He said he's not talked recently with Mr. Joy. He said the road was a lot better than it had been.

**Tweedie Case** – Stu said the matter is in the court of the Selectmen. He gave a brief summary of where the case is as the Appeals Board upheld the denial of the permit. He said he would strongly suggest hiring counsel.

Richard asked about similar handling of such issues in the past. Cynthia said if the Board did something wrong, there is no reason to forever do it that way. A short discussion followed on the various options.

Richard said there seem to be a couple of options, either tear it down or to submit a permit to bring the building into compliance. Mr. Ford said they can't bring the building into compliance now because of the stop work order. He said the Selectmen can issue a penalty. He said the past practice has been to charge a double fee if it could be permitted. He said the better way is to institute a steep fine for starting without a permit. He said he was talking in general.

Perry asked if the board made guidelines that were talked about for after the fact permits. Jo said that didn't happen. A short discussion followed on past practices.

Jo said the Tweedies have to solve their own problem. Brett said they took the word of their contractor, and that has caused them pain and suffering. He said that is not the town's problem if the Tweedies decide to sue the contractor. He said the landowner is the person ultimately responsible.

Perry said the board should impose a fine and give the go ahead to either remove or bring the building into compliance. Richard said they should be given 90-days to get it done. Mike Garrett said people do things without a permit. He said it's hard to deal with the penalty in cases where a substantial penalty is to be called for. He said it's difficult to believe they didn't think they needed a permit. Richard said the bottom line is the building is not in compliance. Jo said it's not a new matter to the Board. Richard asked if the Board could issue permission to proceed. He said they've got a stop work order. Jo said the Board's role is not to tell the Tweedies how to take care of it. Mr. Ford said the board could tell them to get a permit within 90-days or remove it, and then some kind of fine. A short discussion of fine options followed.

Perry moved to fin the maximum one day amount of \$2,500 and give the Tweedies 90-days to come up with a plan to bring the building within compliance. Mr. Ford said a one-day fine may not be enough. Brett said he doesn't want to hurt someone but the town has to be tough. Perry said they're not going to get what they want. Mr. Ford said the Tweedies could drag out litigation. Perry said since there was no 2<sup>nd</sup> to his motion, he would withdraw it.

Perry moved to find out from an attorney when the clock starts ticking. He said the ordinance states what the town can and can't do. Jo said a fine is based on the number of days. She said the board should give the Tweedies an amount of time to fix it or scuttle their plans. She said if there is no action, the town would deal with it. Mr. Ford said if the board sets a fine schedule, it should keep the door open to treat each case individually. Cynthia said she would favor a fair schedule of fees. A short discussion followed.

Jo said she would like to check with Maine Municipal Association and communicate what Perry proposed, and let the Tweedies know to either fix or get rid of the structure, and give them a deadline. Richard said general decency is that it's only fair to use the date of the official notice for the trigger date. He said that gives them a clean start. He said they should have 90-days to get plans to the Planning Board. Jo asked if they get plans to the Planning Board and it's for something not able to be permitted, they could drag this out three months at a time. Brett said the board could impose a \$10,000 fine now and give them 90-days to comply, and if they drag their feet, the fine would increase. Mr. Garrett said the active penalty could be on a daily basis.

Richard said the penalty should commence on the date of decision and the penalty should accrue daily. He said they should have 90-days to apply for a permit or remove the building. Mr. Macurdy said removal might be cheaper than complying with the fine. Jo said day one starts when they board makes its decision. Brett said it's easier to set a flat

fee. A short discussion followed. Brett asked what a fair figure would be. A short discussion followed. Perry said the incentive is to take care of the situation. Brett asked if they want to impose a \$90,000 fine.

Cynthia said this is important as they are setting precedent for a number of other things that might happen. She moved that it be \$250/day. A short discussion followed. Mr. Ford said it might be useful to consider the market value of the building. Perry said there would be a good starting point.

Perry moved that starting with the Selectmen's notification, the fine is \$1,000 per day and the Tweedies have 90-days maximum to bring the building into compliance. Richard said a final fine could be negotiated later. He 2<sup>nd</sup> Perry's motion. Selectmen asked Stu to check with MMA. **Vote in favor was 5-0.**

Jo said she agreed with suggestions of coming up with something for after-the-fact permits. She said the town needs to deter that type of behavior. Mr. Garrett said the town could charge \$250 a day for an after the fact permit if it wanted to. Mr. Macurdy noted this is the 2<sup>nd</sup> time a contractor has been at fault for a violation. Brett said it's ultimately the homeowner's responsibility.

**Delivery of Services Grant** – Stu said he wondered if the board had any ideas for municipal cooperation. Cynthia suggested pooling office supply purchases. Stu said MMA does that already.

**Seal Point Road Paving** – Brett said the paving was beautiful. Jo said it was pretty good. Perry said it was paved. Jo said the shoulders need grading. A short discussion followed and it was agreed the road commissioner has authority to manage his budget and should take care of this. Mr. Ford said he didn't realize he had that permission.

**School Building Committee** – Stu said the meeting is next Wednesday the 13<sup>th</sup>. He said the recent conference attended may be helpful in this matter as it dealt with collaboration on projects. He said he's been invited to address the meeting in regard to impact on the mill rate.

**Warrant 5** – Selectmen signed expenditure warrant 5 for \$142,529.06. Stu noted that \$101,000 was for paving and \$24,000 plus was for school payroll.

**Cash & Budget Report** – There were no questions about the written reports.

**Budget Goals** – Stu said the Budget Committee meets on the 18<sup>th</sup> for its organizational meeting. Selectmen took no action toward budget goals.

**Other – Roofing Guarantee** - Mike Jordan said he went to shingling class and is now a certified IKO installer. He said he can give, for a fee, an ironclad warranty for 5-more years on the fire department roof. He explained how the program worked. He said it would cost \$300 dollars more for the warranty. He said that had to be written up after the

shingles are on. He said he started stripping the roof today. He said the roof would be done next week. He said the Board would have to vote to spend the additional \$300 to get the warranty. Brett said that seemed like a good idea. Perry said it's worth it for sure. Brett moved to buy the warranty. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Snowmobile Club** – Stu said the Frenchman Bay Riders snowmobile club has invited him to meet with them to discuss possibly turning their building over to the town. He said that meeting is set for Sunday, the 17<sup>th</sup> of September.

**Letter from Robert Sharkey** – Stu said he received a letter from Mr. Sharkey asking for all payments made to Stu, which he listed out for Mr. Sharkey. He said there was a follow up letter in tonight's material and he was looking for guidance on how to respond. Selectmen said communications for requests for analysis beyond public documents should be addressed to the Board of Selectmen. Stu said he would communicate that to Mr. Sharkey and enclose the two documents the letter seems to ask for.

**Next Meeting** – The next Selectmen's meeting is set for September 21, 2006.

There being no further business, the meeting adjourned at 9:40 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.